

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Annual Assessment of the Status of	)	MB Docket No. 12-203
Competition in the Market for the	)	
Delivery of Video Programming	)	

**COMMENTS OF  
Wisconsin Community Media**

**Wisconsin Community Media (WCM)** submits these comments in response to the above-captioned Notice of Inquiry (“NOI”), released July 20, 2012, seeking “data, information, and comment on the state of competition in the delivery of video programming.” The FCC asks for feedback on the number of PEG channels on MVPDs, which tier they are on, whether extra equipment is needed, and whether there are fewer of these channels since June 2010.

WCM is a 501(c)(6) professional organization with 55 public, education, and government (PEG) access station members. WCM offers networking opportunities, surveys members on topics ranging from salaries to policies, authors a bi-weekly e-newsletter, promotes program sharing, holds spring and fall conferences, facilitates networking and manages a website at [www.wisconsincommunitymedia.com](http://www.wisconsincommunitymedia.com). Founded in 1998 as the Wisconsin Association of PEG Access Channels (WAPC for short), WCM’s mission is to serve the needs of its members and promote a favorable climate for community media in Wisconsin. Since 2006, this has included lobbying for favorable legislation on the state and federal levels.

**One access channel has gone dark.** In Wisconsin, one access channel has gone dark -- a public access channel in West Allis. Channel 14 was operated by the West Allis Community Media Center (CMC), a non-profit 501(c)(3) organization. The channel had been serving its community of 61,000 people for over 30 years in Time Warner’s Milwaukee service area (and later also AT&T’s, however CMC could never afford the conversion equipment that would have put them on AT&T’s system). Annually, over 100

producers were creating over 200 programs through CMC, including sixteen regular series. The channel also partnered with the school district to train students and teach media literacy. But in 2007, the Wisconsin legislature, believing it was fostering competition, lowering rates for consumers and leaving PEG channels intact, passed state franchise legislation called 2007 Wisconsin Act 42 (or the Video Competition Act). This law ended the collection of PEG fees in Wisconsin beginning in early 2011. The City of West Allis had been using the PEG fee to support the public access operating budget. When this money dried up, CMC hung on for another year and a half. But just ten days ago on August 31, the Center closed its doors and the channel went dark. I asked Craig Mueller, the former director of programming to tell the story.

After over 30 years of operation in West Allis, Wisconsin, the Community Media Center closed its doors at the end of August due to the loss of PEG fees caused by the State's passage in 2007 of the Video Competition Act. The \$150,000 the West Allis Community Media Center (CMC) received annually from Time Warner Cable disappeared in January 2011. Since that time, Channel 14 has been in survival mode as its volunteer board of directors tried desperately to identify funding sources and lower overhead with the hope of somehow finding a way to keep Channel 14 on the air.

In February 2011, the CMC Board of Directors had to make the difficult decision to eliminate the organization's Executive Director position, which was filled for 18 years by Mary Shanahan-Spanic. That decision allowed Channel 14 to have the operating funds to stay open for 18 additional months, giving the Board of Directors some much needed time to try to come up with a viable plan to save public access television in West Allis.

The Board tried many different avenues to try to identify funding sources: asking the City of West Allis and Time Warner for financial assistance; increasing grant-writing initiatives; seeking programming sponsorships; staging major fundraising events; partnering with Public Television; serving the public access needs for more surrounding communities; offering video production services; making social media videos for local bands; partnering with local businesses and other non-profits; subleasing space within the studio facility; trying to find a new home for

little cost; and much more. What Channel 14 found was that many of the avenues led to dead-end streets.

One ray of hope came last fall when Time Warner and the neighboring City of New Berlin agreed to allow West Allis public access serve their community as well -- almost doubling the channel 14 viewing audience without any additional cost. With the approval of the New Berlin Common Council, Community Media Center programming appeared on channel 14 in both communities starting in January 2012. After being turned away for funding and for a facility from both the City and School District of West Allis, the CMC turned its focus to the City of New Berlin. Since New Berlin had been underutilizing its PEG channels, it appeared to have an interest in helping out the West Allis Community Media Center in any way they could. After months of negotiations with the City and School District of New Berlin, the CMC was again unable to move forward due to New Berlin's inability to provide funding. The CMC made one last effort with the City of West Allis by submitting a funding proposal to the common council, which the common council rejected by a 9-0 vote. With the CMC's available operating funds disappearing fast, at the end of July CMC notified our landlord that we would have to vacate at the end of August. The Board notified staff of pending layoffs. On August 8, 2012, the West Allis Community Media Center Board of Directors voted 6-3 to dissolve the organization.

After the news broke that Channel 14 would be closing its doors, the City of West Allis received feedback from the public, showing support for the channel that had been a great model of public access television for over 30 years. During the last few weeks of August, the City of West Allis and the School District offered a home for the CMC in a Recreation Department building and the possibility of funding for one part-time staff person. Being housed in a School District building, however, would mean that members could no longer produce any religious or political programming (outside of candidate forums). The School District would also have the final say on whether any program could be aired or not. After much discussion, the CMC Board agreed that this censorship would compromise our mission statement as a public access station and would not serve about one-third of

our current membership.

On August 27, 2012, CMC held a membership meeting and voted (by secret ballot) on whether to pursue the offer from the City/School District of West Allis. The vote was 17-13 in favor of not accepting the offer.

On August 31, 2012, CMC vacated its facility, which served as a wonderful, productive studio for over nine years, and moved its remaining equipment into an offsite storage facility. The CMC Board of Directors is now tasked with the responsibility of identifying non-profit organizations that could serve our membership and become the recipient of any of CMC's remaining equipment/assets.

Channel 14 in West Allis was a truly great model of public access television run by a non-profit organization. It was an asset to the community as well as a vital tool for democracy and free speech.

The Board has hopes that our West Allis "Channel 14 family" can continue producing quality community television together in the future somehow. While many CMC members are struggling with the stages of acceptance, dealing with the difficulty that something that they have loved for so long has come to the end of existence in West Allis, they can take solace in the fact that they were a part of an organization that had lived life to its fullest.

**Wisconsin's state franchise law damaged PEG access and did not bring statewide competition or lower rates.** West Allis's story is a strong testament to the fact that Wisconsin's state franchise law does not work, unless the intended consequence was to shut down PEG access stations. The law brought competition to only a few areas of the state, most notably 35% of AT&T's telephone footprint in the state, and did not lower rates. A study conducted by the Wisconsin Legislative Audit Bureau in 2009 found that charges for basic service increased 21.2% from July 2007 to July 2009. Charges for expanded basic service increased an average of 11.5%. WCM found in our own 2010 survey that Green Bay residents saw their basic service bills increase from \$21.59 in July

2007 to \$27.21 in July 2010 – a 26% increase and expanded basic service increased 28% to \$61.49 per month. In Madison over the same period, Charter Communications raised rates, too. Basic service in 2007 was \$14.20 and three years later it was 40% higher or \$19.99.

**The loss of PEG fees and tight city budgets have hit PEG access stations hard.**

The state franchise law eliminated PEG fees for approximately 30 community television stations in the state, several of whom depended on those fees for their public access operating budget (the rest used it for capital). Today, Madison's public access station somehow survives on donations and an all-volunteer staff. Eau Claire's Chippewa Valley Community Television has downsized its operations and cut staff after losing approximately half of its revenue due to the loss of PEG fees. Oshkosh Community Media Services recently laid off one and a half people from its three and a half person staff and moved its Director into more city service areas. The City of Madison laid off one and a half staff from its government access station in 2011. The City of Wausau laid off its community programming staff at the end of 2009 and has been cablecasting only its city council meetings and religious programming from local churches. (Just recently, at the urging of the community, the City of Wausau found \$15,000 to start up a small public access program again.) Every community media center is seeing budget cutbacks. Initially, it affected only those depending on PEG fees. Then it began affecting nearly all access centers as cities struggled to maintain basic services in the face of falling revenue. Cities that had once supported community media centers from the franchise fee fund began dipping into it to maintain basic services. For example, Fitchburg's FACT, which had never used any PEG fees, has just lost nearly half of its operating budget and has laid off one person and decreased services.

The viability of PEG stations does not rest only on having a budget to work with. Stations also need video providers to provide channel space, "origination lines," and list the access channels in their channel line-up cards.

**AT&T's U-Verse.** Most access stations in AT&T's service area are not on the AT&T line-up because they cannot afford the equipment necessary to convert their signal to the compressed digital signal required by AT&T. Thus having competition in these

areas has meant that the local access channels are viewed by far fewer residents than before there was competition.

**Cable companies do not identify local channels by name.** Companies typically do not list the names of the access channels in its materials. For example, Charter's line-up card for Dane, Grant, Iowa, and Columbia counties in Wisconsin notes that 95, 96, 97, and 98 carries local access, educational access, educational access, and government access and channels "979 – 994 are Public Affairs Channels". Elsewhere on the card the company vaguely notes that the "Public Affairs Channels" are "Public, Educational, Government Channels; availability may vary by community." Local PEG managers shoulder the burden of promoting these hard to find channels to their residents.

**Casual television viewers have difficulty finding the local access channels.** After state franchise legislation was passed, Charter Communications moved the PEG channels to the analog 90's and digital 980's and 990's. Television audiences have had a hard time finding them. A typical example is the City of Waterloo, a town of 3,300 people, which has operated two modest channels since 1988 on a budget of approximately \$35,000 and a part-time director. WLOO features city council meetings, county board meetings, community events, high school sports, a community bulletin board, and a variety of entertainment programs produced in the area. In 2008, Charter moved the channels from the 20's to 96 and 98 for analog subscribers and 991 and 992 for digital subscribers. Interviews with a set of community stakeholders (city departments, the school district, the library, the cable commission, selected non-profits and local businesses) for a study on city communications conducted by Community Communications Consulting (CCC) tell a typical story. The interviewees believe the shift in location decreased the audience for these channels. City staff talked about how they have used WLOO less and less. One said the channel "is an afterthought." Another said that since Charter moved the channels, it's "out of sight, out of mind." In their experience, many people do not know the channels exist; some people know they exist, but cannot receive them on their older televisions because they do not have a company-supplied converter box. Still others stated they were once able to receive the channels, but now no longer do. These subscribers may not be seeing the channels because of one of two reasons: analog subscribers may have a loose connection allowing FM radio ingress to knock the channels

off the air and digital subscribers may not have reinitialized the compressed digital cable line-up since the last power outage.

**Reception problems have increased.** Reception problems have increased since state franchise legislation was passed. The law does not include any technical requirements. CCC observed the reception on the analog channels at Waterloo's City Hall to be fuzzy, grainy, and rough. Channel 96 looked better, but there was interference from another channel and horizontal lines traveled down from the upper right to the lower left. Similar problems have been reported from other community media centers in Wisconsin.

There is a real concern here for the future viability of PEG access channels. If residents cannot find the channels, if reception is often shaky, if leaner operating budgets cause cutbacks in programming, and audiences are plummeting, will cities continue to invest in them when budgets are tight?

**Summary.** In summary, if the story could be told in simple numbers, Wisconsin would have to say we have "only" lost one channel. But the whole fabric of access television has been severely weakened. Wisconsin PEG access stations are being slowly squeezed out of existence. Wisconsin's state franchise legislation eliminated PEG fees and moved the cost of community television to city budgets at a time when city budgets were getting tighter and tighter. As a result, PEG stations have suffered financially – some severely. The state franchise law allows video providers to charge cities for the cost of origination lines, lines cities have no choice but to purchase from the video provider if they want to maintain an access channel, burdening cities more. One of two major video providers in Wisconsin, Charter Communications, has moved the access channels to out of the way spots on the line-up. AT&T houses them several clicks down on a website and charges access stations for the equipment to do this, which many stations cannot afford. Neither company promotes the access channels and most PEG station budgets are too small to do effective promotion. Viewership has suffered. The state law removed the ability of local governments to regulate reception on the access channels and it has worsened, adding to the downward pressure on viewership. In the face of all this, public, education, and government access channel managers continue to dedicate themselves to their mission. They are not paid all that much; they are stretched really thin; but they just

truly love bringing their communities to life on local access channels.

WCM asks the FCC to take action on the Alliance for Community Media petition that is before it regarding AT&T's U-Verse system (MB Docket No. 09-13) and open a study to look at the disastrous record that has been established since the passage of state franchise laws. The independence of community media centers needs to be restored by allowing local governments to ask for dedicated PEG fees for operating and capital funds. Video providers should be required to provide origination lines and equipment. Local governments should also have the power to enforce technical standards, to ensure reception is good. Rather than having to be "in the know" to find local access channels, residents should be able to easily find their local channels – without a lot of promotion cities can ill afford. Action needs to be taken to save community access centers before more access managers find themselves saying, like Craig Mueller of the now defunct West Allis Community Media Center, that "they can take solace in the fact that they were a part of an organization that lived life to its fullest."



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